1950.

File No. O Petroleum/50

Legal Department

A **BRANCH**

Subject.

Opinions under the Petroleum Act, 1934

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C O N T E N T S.

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r.No.	R.I./O.No.	Subject	pages
		Spirit as under the Petroleum Act, 1934.	
1.	O.No. 15908 14-11-50	B'bay Municipal Corporation Act, 1888, secs. 394 & 396. Cinematograph film Rules, 1948 whether Municipal Commissioner B'bay can be empowered to grant licences to store films. -	1-4.

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4 copies.

Advice of the A.L.O.

Petroleum Act, 1934. Bombay Municipal Corporation Act, 1888, sections 3 4 and 395, Cinematograph Film Rules, 1948.

Whether Municipal Commissioner, Bombay can be empowered to grant licences to store films.

The question referred to the A.L.O. for advice are :-

1) Whether the Municipal Commissioner cannot be notified as the licensing authority for Bombay City, under the Cinematograph Film Rules, 1948 by amending those Rules ?

2) Whether the Municipal Corporation of Bombay cannot be excluded from the Government of India, Ministry of Works, Mines and Power, Notification No. P-108, dated 31-12-1948 ?

3) Whether the Municipal Fire Brigade officers cannot be authorised under the Petroleum Act, 1934, to enter and inspect places where films are stored ?

4) Whether notwithstanding the limitation imposed upon the operation of section 394 of the Bombay Municipal Corporation Act, 1888, it is possible for the Municipal Inspectors and Fire Officers to enter any premises with a view to inspecting storage of films or detecting unauthorised storage of films ?

The answer to the first and the third questions is in the negative, for the principal reason that the officers contemplated by the Petroleum Act, 1934, are officers of Government and not officers of local authorities or authorities other than a part of a local authority like the Municipal Commissioner, (vide also sections 13 and 26 of the Petroleum Act, 1934).

Regarding the second question, it may be observed that there is no legal impediment in excluding the Municipal Corporation of Bombay from the Government of India, Ministry of Works, Mines and Power, Notification No. P-108, dated 31-12-1948. However, such exclusion would mean that for the storage of films an additional licence from the Municipal Commissioner would be necessary for quantities in excess of 20 lbs.

The position today is that no municipal licence is at all necessary; for the Bombay Municipality have no authority to require and grant a licence for quantities in excess of 20 lbs; and by virtue of Part I of Schedule I read with section 394 of the Bombay Municipal Corporation Act, 1888, no licence is needed

for quantities not in excess of 20 lbs. It would, therefore, seem that there is hardly any scope for attracting the provisions of section 396 of the Bombay Municipal Corporation Act, 1888, which gives powers for inspectio There is no other provision in that Act which can be availed of for this purpose. The answer to the third and fourth questions is, therefore, in the negative.

The R.L.A. would suggest that since the Bombay Municipality maintains a fire service and it is one of the obligator functions of the Municipality to protect life and property in case of fire, the Municipality too may be given concurren powers of licensing and inspection by deleting the Municipality from the scope of the Government of India, Ministry of Works, Mines and Power, Notification No. P-108, dated 31-12-1948. The original intention undoubtedly was that the Bombay Municipality should have the power to grant a licence and considering that fires add to their burdens, it is but proper that they should have a predominant voice in measures extended to prevent fires; and that has been recognised in the established practice of obtaining a "no objection" certificate from them. It is necessary to regularize that practice which is based actually on convention. A system of dual licensing would certainly prove more effective as a preventive measure and help to avert fires on account of storage of films which of late have been rather frequent in Bombay and have caused considerable damage to life and property. If tha t suggestion be unacceptable, the only alternative is to amend the Petroleum Act, 1934, so as to confer on local authorities and / or their officers the power to discharge functions under the Act including licensing and inspection for that purpose.

Sd/-P.M.Lad
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Remembrancer of Legal Affairs.

U.R. to H.D. No. 15902 dated the 14th November 1950.